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D O M E S T I C A N D S E X U A L
V I O L E N C E

January 17th, 2011

SENATE JUDICIARY
COMMITTEE NO. 1
DATE 1/17/11
BILL NO. SB 152

To: Senate Judiciary Committee
From: Kelsen Young, Executive Director
Re: SB 152 – Increase penalties for second and subsequent sexual assault

Good morning, Mr. Chairman and Members of the Senate Judiciary Committee. For the record, my name is Kelsen Young and I am the Executive Director of the Montana Coalition Against Domestic and Sexual Violence. We are a statewide membership organization representing direct service programs from across the state that provide services to victims of domestic and sexual violence. We rise in support of Senate Bill 152.

This is an important bill because it increases the penalties for repeat offenders who are charged under 45-5-502 which is commonly known as the sexual assault statute. There are several statutes under the "Sexual Crimes" section of the MCA. This statute and 45-5-503, Sexual intercourse without consent, are the laws that are used to prosecute offenders of various types of sexual assaults – including what is commonly referred to as rape. Offenders are charged based on the degree of the crime.

As you can see, in current law a sexual assault offense is considered a misdemeanor and has fairly limited penalties. The proposed legislation would increase the penalties upon subsequent charges and create a felony-level offense for repeat offenders. Other misdemeanor statutes that have "stacking" offenses similar to this proposal include: Indecent Exposure 45-5-504; Stalking 45-5-220; PFMA 45-5-206; and Violation of Order of Protection 45-5-626. As you can see, previous Legislatures have recognized the value of holding offenders accountable for repeat offenses under other misdemeanor statutes. Supporting SB 152 would bring sexual assault statutes in line with existing law and practice.

During the 2009 session, a similar bill was introduced, HB 102. HB 102 passed the House on a 100-0 vote before dying in the Senate Judiciary Committee. Last session concerns were brought forth from Legislators opposing the bill regarding the definition of sexual contact. Sexual contact is defined in statute as "touching of the sexual or other intimate parts of the person of another, directly or through clothing, in order to knowingly or purposely: (a) cause bodily injury to or humiliate, harass, or degrade another; or (b) arouse or gratify the sexual response or desire of either party".

Prosecutors are not charging sexual assault, 45-5-502, unless it is clear that all of the requirements have been met:

- It must be non-consensual.
- It must involve contact with the sexual or intimate parts of another.
- It must be knowingly or purposely.
- It must have caused bodily injury or humiliate, harass, or degrade another.
- And, it must be done to arouse or gratify either party.

Current law states that if the sexual assault is committed against a person under the age of 16 then the offender could face life in prison or a minimum of 4 years. Why does our law place less value on victims of sexual assault who are older than 16?

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COALITION AGAINST
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Cont.

Statistics in Montana show that there were 325 victims of rape and 495 victims of sexual assault in 2009 that reported to law enforcement. This is according to the crime data collected by the Montana Board of Crime Control through their incident-based reporting system. I have provided copies of excerpts from the Montana Board of Crime Control's "Crime in Montana" report from 2008-2009 for further information.

In addition, according to the Montana Sexual or Violent Offender Registry, there are 847 offenders registered under 45-5-502; 598 offenders registered under 45-5-503, and 977 offenders who were convicted out of state. These are the numbers of just the *registered* sex offenders currently living in Montana.

Alas, these numbers never truly tell the whole story. It is still true that only approximately 40% of victims report their rapes to police. Primarily, due to the fact that approximately two-thirds of victims are attacked by someone they know. National statistics show that there were 272,350 victims of rape or sexual assault in 2006; meaning every two minutes someone in the U.S. is sexually assaulted.

The numbers are staggering and frustrating. At the very least, when someone has the courage to come forward and report the crime, offenders should be held accountable. By increasing the penalties for sexual assault we are acknowledging the pain and suffering that has been inflicted upon the victim of the crime and our communities as a whole.

I urge you to pass SB 152. Thank you for your time and attention. If you have questions, I am available to provide further information.

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